



# MAYOR AND COUNCIL AGENDA

NO.

6

DEPT.: CPDS

STAFF CONTACT: Scott E. Parker, AICP

DATE PREPARED: Feb. 23, 2005

FOR MEETING OF: Mar. 14, 2005

**SUBJECT:** Introduction and Adoption of Ordinance for Text Amendment TXT2004-00211, to amend section 25-643(5) of the Zoning Ordinance to add "nursing homes" as a permitted Institutional Use within areas of a Comprehensive Planned Development (CPD) that specifically allow senior housing uses. King Farm Associates, Applicant.

**RECOMMENDATION:** Staff recommends that this ordinance be introduced and adopted at the meeting of March 7, 2005. If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four members of the Mayor and Council, you may then proceed to move to adopt the ordinance.

**DISCUSSION/HISTORY/BACKGROUND:** The applicant has requested this text amendment to facilitate adding "nursing homes" to the list of permitted residential uses as outlined within Section 25-643(9). Staff has determined, however, that Section 25-643(5), which is the section of the Ordinance pertaining to permitted Institutional uses within a Comprehensive Planned Development, would be a more appropriate place for the nursing home provision to be placed. The reason is that nursing homes are already defined elsewhere within the Ordinance as an Institutional Use.

In addition, staff has recommended additional text language that limits nursing homes to the areas identified within the proposed Concept Plan amendment that specifically allows nursing homes and senior housing uses. The effect of the change would be to allow nursing homes within the context of an overall senior housing component, where its presence would be appropriate, while not allowing them in all areas of all CPDs, where the impacts could be detrimental to the residential character of a particular residential area.

## PLANNING COMMISSION RECOMMENDATION:

On July 14, 2004, The Planning Commission reviewed this application and provided comments for consideration. The Commission agreed with staff's recommendation regarding the language change, and unanimously voted to recommend approval of the text amendment to the Mayor and Council.

The Planning Commission did not hear testimony regarding the change of language from the residential section to the Institutional Use section. Staff does not believe that this is problematic, given that the language and effect of the text amendment are the same, and that the text's location within section 25-643 is matter of consistency with the Ordinance and not a substantive change.

Testimony at the Planning Commission's Public Hearing was in favor of the amendment.

**MAYOR & COUNCIL PUBLIC HEARING COMMENTS:** Two members of the public spoke in favor of approving the text amendment.

**STAFF COMMENT:** King Farm Associates is applying for this text amendment as part of a proposed Concept Plan amendment, which is concurrently being evaluated by the Mayor and Council. The proposed amendment of the Concept Plan is to identify areas approved for office that can be alternately used for senior housing uses. Part of the proposal will be for nursing home type facilities, which requires this text amendment. The other uses proposed with the Concept Plan amendment, including independent and assisted living units, are currently allowed under the CPD section of the Ordinance.

**Boards and Commissions Review:** The Planning Commission considered this application at their meeting of December 14, 2004, as part of the Concept Plan amendment discussion, and recommended favorably.

**PREPARED BY:**



Scott E. Parker, AICP, Acting Chief of Planning

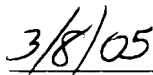


Date

**APPROVE:**




Arthur D. Chambers, AICP, Director



Date



Scott Ullery, City Manager



Date

**LIST OF ATTACHMENTS:**

1. Amended Text Amendment language
2. Proposed Ordinance for Adoption

Proposed Text Amendment language for King Farm Concept Plan amendment CPD1995-0002B:

Section 25-643

FROM: Which reads as follows:

- (5) Institutional.
  - a. Day care facilities;
  - b. Eleemosynary or philanthropic institutions;
  - c. Private business, trade and job training schools.

To add the following:

- d. Nursing homes, within areas identified in the Concept Plan as specifically designated for senior housing uses.

Ordinance No. \_\_\_\_\_      ORDINANCE:    To Grant Text Amendment Application No.  
TXT2004-00211, with amendments, King Farm  
Associates, Applicant

WHEREAS, King Farm Associates, Applicant, c/o Olav Kollevoll, 8330 Boone  
Boulevard, Suite 460, Vienna, VA 22182, filed Text Amendment Application TXT2004-00211,  
for the purpose of adding nursing homes as a permitted use within residential areas of a  
comprehensive planned development (CPD); and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its  
meeting of June 14, 2004, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment  
application at its June 23, 2004, meeting and recommended approval, in part, with modifications;  
and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and  
Council of Rockville gave notice that a hearing on said application would be held by the Mayor  
and Council in the Council Chambers at Rockville City Hall on July 19, 2004, at 7:00 p.m. or as  
soon thereafter as it may be heard; and

WHEREAS, on July 19, 2004, said application came on for hearing at the time and place  
provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application,  
and the entire file pertaining thereto, said Mayor and Council having decided that the granting of  
this application, as amended, in the form set forth below would promote the health, safety and  
welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2004-000211 be, and the same is hereby, granted, as amended, in the form set forth below.

SECTION 1. That Chapter 25 of the Rockville City Code entitled "Zoning and Planning," Section 25-643, "Uses permitted in comprehensive planned development" be amended to read as follows:

Sec. 25-643. Uses permitted in comprehensive planned development.

The following uses may be authorized subject to the procedures hereinafter set forth and the limitations pertaining to such use recommended in the approved and adopted Plan:

\* \* \*

(5) Institutional

- a. Day care facilities;
- b. Eleemosynary or philanthropic institutions;
- c. Health maintenance organization facility.
- d. Nursing homes, in areas specifically designated for nursing home use in the concept plan.

\* \* \*

Note: [Brackets] indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

\*\*\*\*\*

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of

\_\_\_\_\_  
Claire F. Funkhouser, City Clerk

(5)